

CP-42 Commission Position on Apartment Building or Complex Management

The Commission recognizes that owners of apartment buildings or complexes will engage the services of real estate brokerages or unlicensed, on-site managers, or both. An “owner” includes either a person or an entity recognized under Colorado law. The owner must have a controlling interest in the entity formed by the owner to manage the apartment building or complex. In the instance of an entity, the “owner” may form a separate entity to manage the apartment building or complex. The ownership entity and the entity formed by the owner to manage the apartment building or complex must be under the control of the same person or persons.

Pursuant to §12-61-101(2)(b)(XII), C.R.S., a regularly salaried employee of the owner of an apartment building or complex is permitted to perform customary duties for his or her employer without a real estate broker’s license. The unlicensed, on-site manager must either report directly to the owner or to the real estate broker, if a real estate broker is engaged to manage the property. The Commission views the following to be customary duties of an unlicensed, on-site manager:

1. Performance of clerical duties, including gathering information about competing projects.
2. Obtain information necessary to qualify prospective tenants for a lease. This includes obtaining and verifying information regarding employment history, credit information, references and personal information as necessary.
3. Provide access to a property available for lease and distribute preprinted, objective information prepared by a broker as long as no negotiating, offering or contracting is involved.
4. Distribute preprinted, objective information at an on-site leasing office that is prepared by an owner or broker, as long as no negotiating, offering or contracting is involved.
5. Quote the rental price established by the owner or the owner’s licensed broker.
6. Act as a scrivener to the owner or the broker for purposes of completing predetermined lease terms on preprinted forms as negotiated by the owner or broker.
7. Deliver paperwork to other brokers.
8. Deliver paperwork to landlords and tenants, if such paperwork has already been reviewed by the owner, or a broker or has been prepared in accordance with the supervising broker’s instructions.
9. Collect and deposit rents and security deposits in accordance with the owner’s lease agreement or the brokerage firm’s written office policy.
10. Schedule property maintenance in accordance with the brokerage firm’s management agreement or the owner’s lease agreement.

If the owner has executed a Power of Attorney form or a written delegation of authority that authorizes the unlicensed, on-site manager to sign and execute leases on behalf of the owner, the unlicensed, on-site manager may execute those without possessing a real estate broker’s license. Brokers supervising unlicensed, on-site managers with this authority are expected to review the executed documents to ensure compliance with lease terms, management agreements, local, state and federal laws, including the real estate brokerage practice act and Commission rules.

Employing brokers need to be especially aware of their supervisory duties under the license law. Supervisory duties apply whether the on-site manager is an employee or independent contractor of the broker or brokerage firm, or if the on-site manager is a regularly salaried employee of the apartment building or complex owner. The employing broker should have a written office policy explaining the

duties, responsibilities and limitation on the use of on-site managers. This policy should be periodically reviewed with all employees.